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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,746	02/14/2002	William A. Reed	920002.90248	1829
26710	7590	05/18/2004		EXAMINER
QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497				HANSEN, JAMES ORVILLE
			ART UNIT	PAPER NUMBER
				3637

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/076,746	REED ET AL.
	Examiner	Art Unit
	James O. Hansen	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 February 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8, 10-25 and 27-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1, 3 and 27 is/are allowed.

6) Claim(s) 2, 4-8, 10-25 & 28-34 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 2, 4-8, 11-25 & 29-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claims 2, 4-8, 11-16, 18-21, 23-25 & 29-34, the phrase "The apparatus" does not constitute a proper perambulatory antecedent basis since the independent claims are directed towards "A refrigeration unit". In Claim 12, line 1, the phrase "the inset liner" does not have a proper antecedent basis [should be "insert"]. In Claim 17, lines 4-5, the phrase "for a planar shelf sized so that opposite edges contact the rests" may be viewed as being unclear and confusing since the limitation "opposite edges" is not clearly associated with a previously defined element [opposite edges of what ?]. In Claims 18 & 20, the phrase "second inner walls" does not have a proper antecedent basis [should be "second side walls"]. In Claim 22, line 5, the phrase "the storage" does not have a proper antecedent basis [should be "storage cavity"].

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an

international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Werkmeister et al., [U.S. Patent No. 5,346,299]. Werkmeister (figures 1-4) teaches of a refrigeration unit (fig. 1) comprising: a cabinet defining a storage cavity open at a front side and covered by a door mounted to the cabinet (all depicted in fig. 1). The door (15) having an inner surface (see fig. 2) defining at least one pair of vertically aligned shelf support mounts /extending bosses (30), the shelf support mounts support at least one door shelf (40) having a bottom (42) and a side rail (43) with opposite ends (45, 46) perpendicular to the door, the shelf support mounts including laterally spaced uprights (24, 25) as best understood by the examiner, the door shelf defining a pair of shelf mounts / tracks (48's and/or 49's e.g.,) for engaging the shelf support mounts such that the door shelf can be detached from the shelf support mounts by tilting a side of the door shelf toward the door and moving the shelf away from the door [see col. 3, lines 62-68]. The inner surface of the door being defined by an insert liner (21) which is inherently viewed as being a thermoformed plastic i.e., molded from a suitable plastic material as is conventionally utilized in the refrigerator art. The tracks have an open end toward the ends of the shelf side rail ends (fig. 3 for example),

wherein the tracks define a straight portion adjacent the open end (portion defined by reference no. 52 in fig. 3) and an angled portion extending at an oblique angle from the straight portion to a closed end (viewed as the angled vertical portion to the left of ref., no. 52 and to the right of recess 58 for example) in as much as applicant depicts the claimed feature.

5. Claims 17 & 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Traulsen [U.S. Patent No. 3,797,903]. Traulsen (figures 1-9) teaches of a refrigeration unit (fig. 1) comprising: a cabinet defining a storage cavity open at a front side and covered by a door (not shown but mentioned in the spec.) mounted to the cabinet. The cabinet having a back wall (19) opposite first and second side walls (32, 34) defining a pair of vertically aligned rests (54 e.g.,) for a planar shelf (60) having opposite edges and sized to be supported via the rests, the first side wall defining a concave recess (note 58 in fig. 5) adjacent an upper side of the rest, whereby the shelf can be removed from the rests by pivoting the shelf edge adjacent the recess upward (figs. 8-9) about an axis extending in a direction between the back wall and the face of the cabinet [it is viewed that the prior art still reads on the claimed limitations since the “axis” is not specifically defined in relation to an element on the cabinet – the claim just states that the axis extends in a direction, that direction being between the back wall and the face – the examiner suggests incorporating language that better conveys applicant’s intent; such as, pivoting the shelf in a side-to-side fashion (the entire edge of the shelf adjacent the first side wall is tilted upwards while the entire opposite edge remains attached to the second side wall e.g.,) as opposed to a front-to-back manner represented in the prior art]. The unit having a plurality of shelves and vertically aligned rests (note fig. 1). The concave recess extending from the access opening (22)

a distance less than the length of an edge (see fig. 1 e.g.,) of the shelf (viewed as either a lengthwise or widthwise edge).

6. Claims 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper et al., [U.S. Patent No. 6,238,032]. Cooper (figures 1-6) teaches of a refrigeration unit (figs. 1-3) comprising: a cabinet defining a storage cavity open at a front side and covered by a door mounted to the cabinet (all depicted in fig. 1). The cabinet having opposite first and second inner walls (44) defining a pair of vertically aligned rests (56 or 54 e.g.,) for a planar shelf (70) sized to be supported via the rests, the first inner wall defining a concave recess (top of 56 - note fig. 3) adjacent an upper side of the rest, whereby the shelf can be pivoted upward (gleaned from fig. 3) about an axis extending in a direction between the back wall and the face of the cabinet [it is viewed that the prior art still reads on the claimed limitations since the “axis” is not specifically defined in relation to an element on the cabinet – the claim just states that the axis extends in a direction, that direction being between the back wall and the face – the examiner suggests incorporating language that better conveys applicant’s intent; such as, pivoting the shelf in a side-to-side fashion (the entire edge of the shelf adjacent the first side wall is tilted upwards while the entire opposite edge remains attached to the second side wall e.g.,) as opposed to a front-to-back manner represented in the prior art]. The inner walls being defined by an insert liner (40) which is a thermoformed plastic (note col. 2). The unit having a plurality of shelves and vertically aligned rests (note fig. 3). The concave recess extending from the access opening (50) a distance less than the length of an edge (see fig. 3 e.g.,) of the shelf (viewed as either a lengthwise or widthwise edge).

7. Claims 28-31 & 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al., [U.S. Patent No. 5,496,104]. Arnold (figures 1-10) teaches of a “refrigeration unit” (fig. 6 – in as much as no refrigeration components are positively being claimed. Viewed as being a generic cabinet having a cavity, an access opening and a door) comprising: a cabinet (2) defining a storage cavity with an access opening at a face of the cabinet; and a door (6) hinged to the cabinet face to cover the access opening. The door having a top member (20), framing (22, 24, 26 and may include 20), a floating face panel (14) and an overlay panel (16) mounted to the face panel via the framing for concealing the cabinet (fig. 7). The framing defining a retaining lip (viewed as 28 – 28A in fig. 6) extending around at least a portion of the perimeter of the face panel disposed within a gap between the overlay panel and the face panel so as to retain the face panel in the door. The unit further comprising spacers (viewed as the foam 19 – the foam could constitute foam pieces depending upon personal preferences) disposed between the face panel and the overlay panel. The top member is removable and retains the face panel in the framing from above. The unit further including upper and lower door hinges (8A & 8b) mounted to the cabinet and the overlay panel via the door assembly.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sedovic et al., [U.S. Patent No. 5,370,455]. Sedovic (figures 1-4) teaches of a refrigeration unit (fig. 1) comprising: a cabinet defining a storage cavity open at a front side and covered by a door mounted to the cabinet (all depicted in fig. 1). The door (14) having an inner surface (fig. 2 e.g.,) defining at least one pair of vertically aligned shelf support mounts /extending bosses (28), the shelf support mounts support at least one door shelf (35) having a bottom (37) and a side rail (36) with opposite ends (38, 39) perpendicular to the door, the shelf support mounts including laterally spaced uprights (26, 27) as best understood by the examiner, the door shelf defining a pair of shelf mounts / tracks (40) for engaging the shelf support mounts such that the door shelf can be detached from the shelf support mounts of the door. The inner surface of the door being defined by an insert liner (21) which is a thermoformed plastic i.e., molded from a suitable plastic material as noted in the spec. The tracks have an open end toward the ends of the shelf side rail ends, wherein the tracks define a straight portion adjacent the open end and an angled portion extending at an oblique angle from the straight portion to a closed end (note figs. 2 & 3) in as much as applicant depicts the claimed feature. Sedovic teaches applicant's inventive claimed structure as disclosed above, but the shape of the bosses does not allow the door shelf to removed from the door by tilting a side of the door shelf toward the door and moving the door shelf away from the door [Sedovic's door shelf is removed by raising a side of the door shelf parallel to the door and moving the door shelf away from the door]. As such, it would have been an obvious matter of design choice to modify the shape of the boss and/or receiving track depending upon personal preferences or design considerations since such a modification would have involved a mere change in the

shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Allowable Subject Matter

10. Claims 1, 3 & 27 are allowed.
11. Claims 2, 4-8 & 22-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
12. Claims 32 & 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
May 14, 2004